



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Branch (1145b)
Post Office Box 6898
Elmendorf AFB, Alaska 99506-6898

PUBLIC NOTICE DATE: 4 February 2004
EXPIRATION DATE: 5 March 2004
REFERENCE NUMBER: M-2000-0052
WATERWAY NUMBER: Japanese Creek 1

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States as described below and shown on the attached plan.

APPLICANT: City of Seward, Post Office Box 167, Seward, Alaska 99664-0167.

AGENT: HDR, 2525 C Street, Suite 305, Anchorage, Alaska 99503-2632.

LOCATION: Adjacent to and below the ordinary high water line of Japanese Creek, downstream from the Dimond Boulevard bridge crossing of Japanese Creek to the intersection of the Seward Highway, within sections 27 and 34, T. 1 N., R. 1 W., latitude 60° 8' N., longitude 149° 26' W., Seward Meridian, in Seward, Alaska.

WORK: Construct a 4,450 linear feet gravel-filled levee and access road. Approximately 1,200 linear feet would follow an existing road alignment (Dimond Boulevard).

PURPOSE: The primary project purpose is to protect North Forest Acres Subdivision from periodic flood damage by Japanese Creek. Secondary project purpose is to eliminate large truck traffic, destined for the Seward waste transfer facility and a commercial borrow pit operation, from neighborhood streets in North Forest Acres Subdivision.

ADDITIONAL INFORMATION: The proposed project footprint is 5.37 acres, with 2.06 acres of wetland impacts, 2.0 acres of upland impacts, and 1.31 acres on the existing Dimond Boulevard roadbed. The structure would also isolate 6.7 acres of wetlands from the Japanese Creek and Resurrection River floodplains. Construction activities would disturb an additional 0.91-acre of wetlands which would be revegetated after construction. The levee/road would realign approximately 900 linear feet of Japanese Creek. The riprap-armored structure would have an average base width of 52', and an average height of 4' at the west end and 8' on the east end. The project would require 53,650 cubic yards of fill material, with 20,820 cubic yards discharged into wetlands. The crest of the levee/road will be 38' wide with a 24' wide asphalt pavement surface. An 18" thick layer of rock armor riprap will be placed on the creek side of the levee to protect the gravel filled structure from the floodwater erosion.

This project was initially proposed in conjunction with the upper Japanese Creek levee improvement project, authorized by DA permit 4-2000-0052 on November 22, 2000. However, at the City of Seward's request the project was split for

consideration under separate permit reviews. Though each portion of the overall project is considered a complete project, this proposal is being identified as a modification to the upper Japanese Creek permit due to similar purpose, structural continuity, and waterway adjacency reasons.

MITIGATION: The proposed route alternative has incorporated avoidance measures in the project design to minimize wetland impacts. Compensation efforts include initiating a storm drain stenciling program to increase community awareness about water pollution, and assisting the Alaska Department of Fish and Game with a salmon stocking effort in First Lake and Japanese Creek.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Office of Project Management and Permitting, Department of Natural Resources has concurred with the applicant's certification.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Engineer at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between the Federal government and Federally recognized Tribes. This notice invites participation by agencies, Tribes, and members of the public in the Federal decision-making process. In addition, Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Engineer during the public comment period.

ENDANGERED SPECIES: Preliminarily, the described activity will not affect threatened or endangered species, or their critical habitat designated as endangered or threatened, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and

the National Marine Fisheries Service. Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. The Alaska District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, North Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the National Marine Fisheries Service (NMFS).

We have determined that the described activity may adversely affect EFH. The proposed work may affect approximately 10 acres of EFH for juvenile anadromous fish. Japanese Creek supports runs of coho, sockeye, chum and pink salmon. This Public Notice initiates consultation requirements with the NMFS under the MSFCMA. We have insufficient information at this time to assess the cumulative effects of the proposed work on EFH, but cumulative effects will be considered in our final assessment of the described work. Any conservation recommendations regarding EFH for federally managed fish will also be considered in our final assessment of the described work. This proposed project may also adversely affect associated species such as major prey or predator species which are not covered by Fishery Management Plans.

SPECIAL AREA DESIGNATION: None.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Jack Hewitt at (907) 753-2712, toll free from within Alaska at (800) 478-2712, or by email at jack.j.Hewitt@poa02.usace.army.mil if further information is desired concerning this notice.

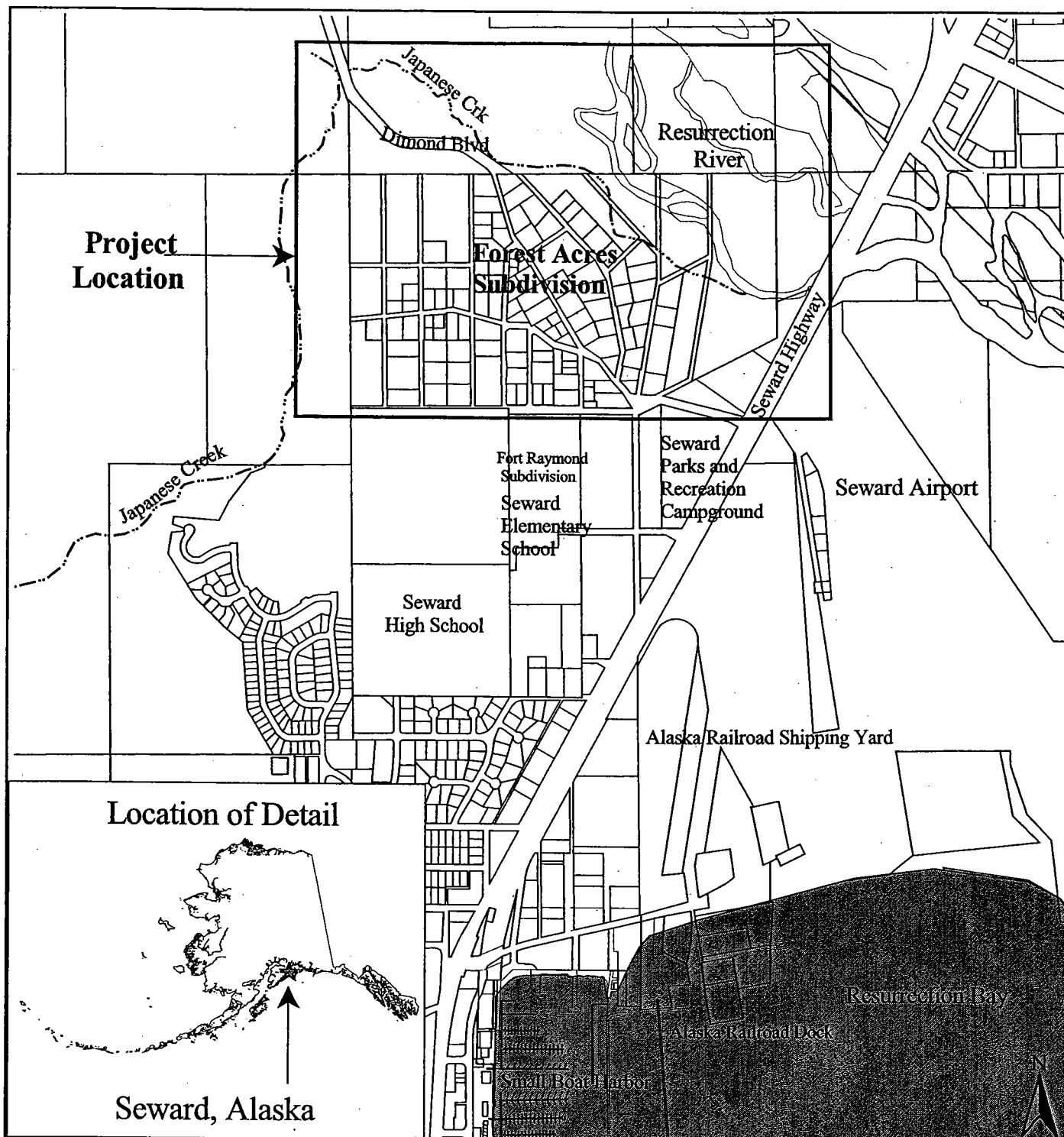
AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Discharge dredged or fill material into waters of the United States - Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

A plan, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are attached to this Public Notice.

District Engineer
U.S. Army, Corps of Engineers

Attachments



Location: T. 1N, R. 1W, S. 34 & 27
Seward Meridian
Seward, Alaska
USGS Quad Seward (A-7)

Adjacent Property Owners:
See attached table (Block 24)

Vicinity Map

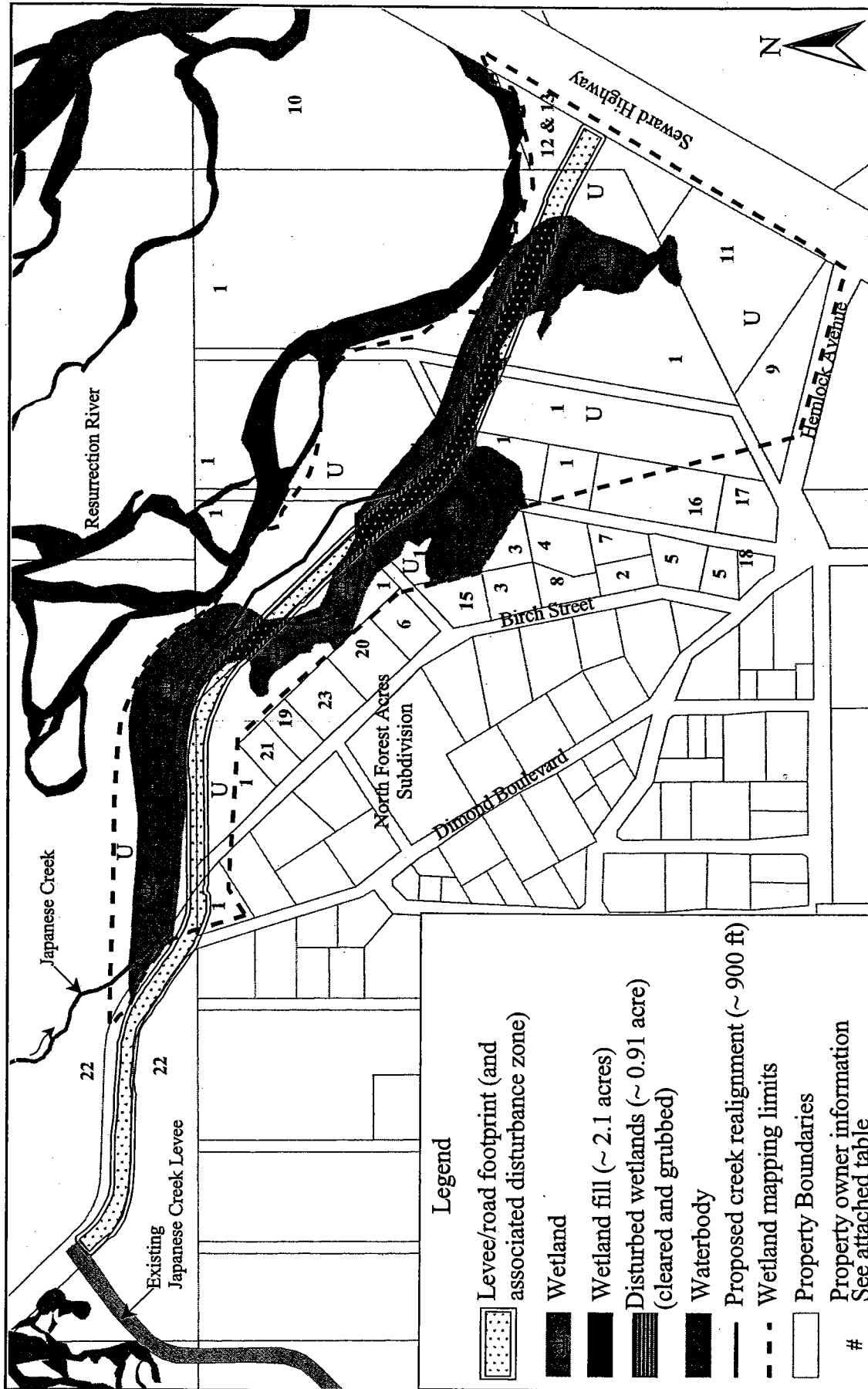
Application by:
City of Seward
PO Box 167
Seward, AK 99664

1000 0 1000 Feet

North Forest Acres Levee and Access Road Project

Sheet 1 of 5

Waterbody: Japanese Creek
COE Number: M-2000-0052,
Japanese Creek 1
Date: 11/5/03
File: chsrv02/jsivils/North_Forest/ea_figs.apr



Location: T. 1N, R. 1W, S. 34 & 27
Seward Meridian
Seward, Alaska
USGS Quad Seward (A-7)

Adjacent Property Owners:
See attached table (Block 24)

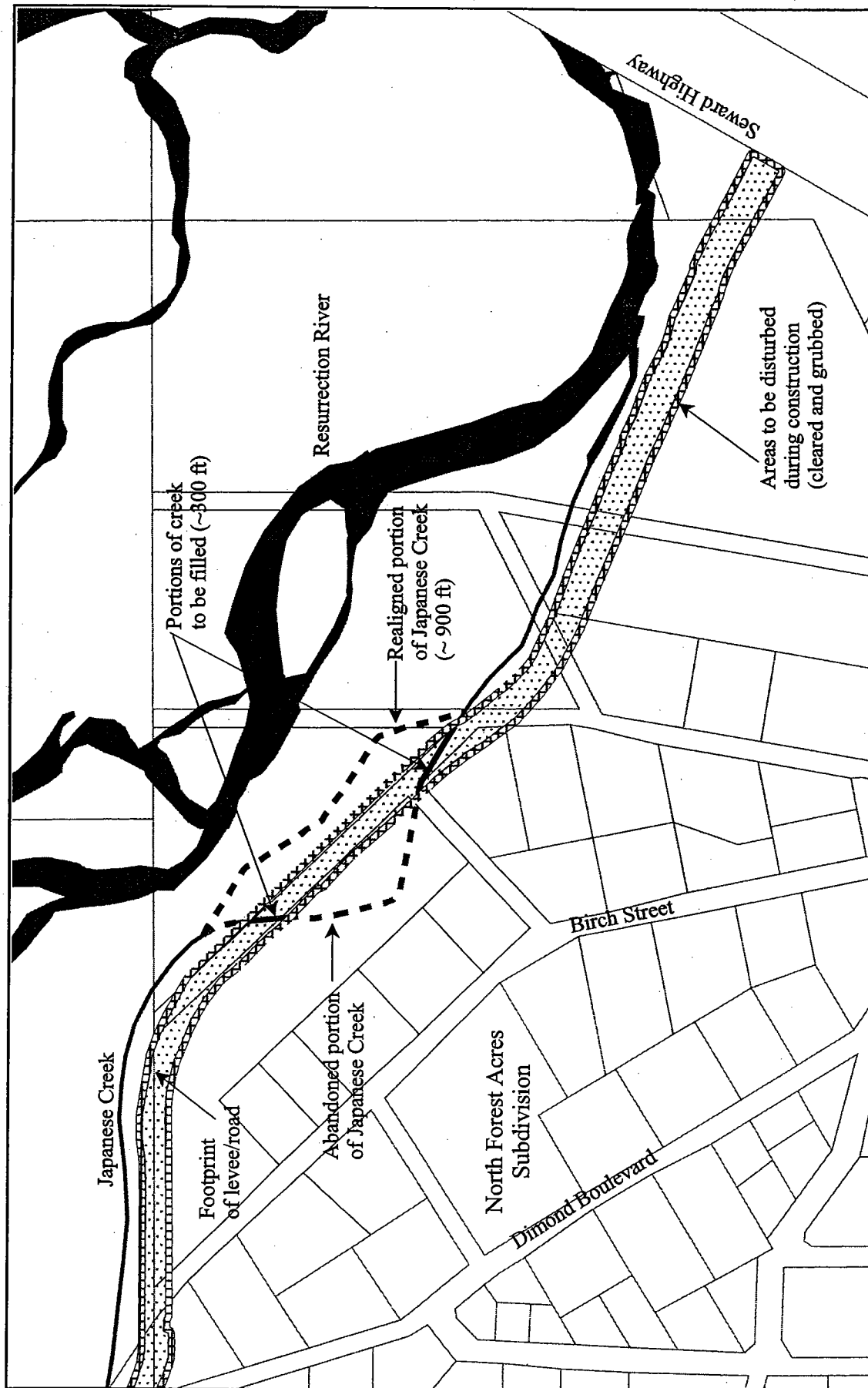
Wetland Impacts Along Preferred Alternative (West 2b with creek realignment and East 3)

Application by:
City of Seward
PO Box 167
Seward AK 99664

Scale 1" = 500'

North Forest Acres Levee and Access Road Project Sheet 2 of 5

Waterbody: Japanese Creek
COE Number: M-2000-0052, Japanese Creek 1
Date: 11/4/03
File: chsr02/jsivils/North_Forest/ea_figs.apr



Location: T. 1N, R. 1W, S. 34 & 27
 Seward Meridian
 Seward, Alaska
 USGS Quad Seward (A-7)

Creek Impacts from Preferred Alternative (West 2b with creek realignment and East 3)

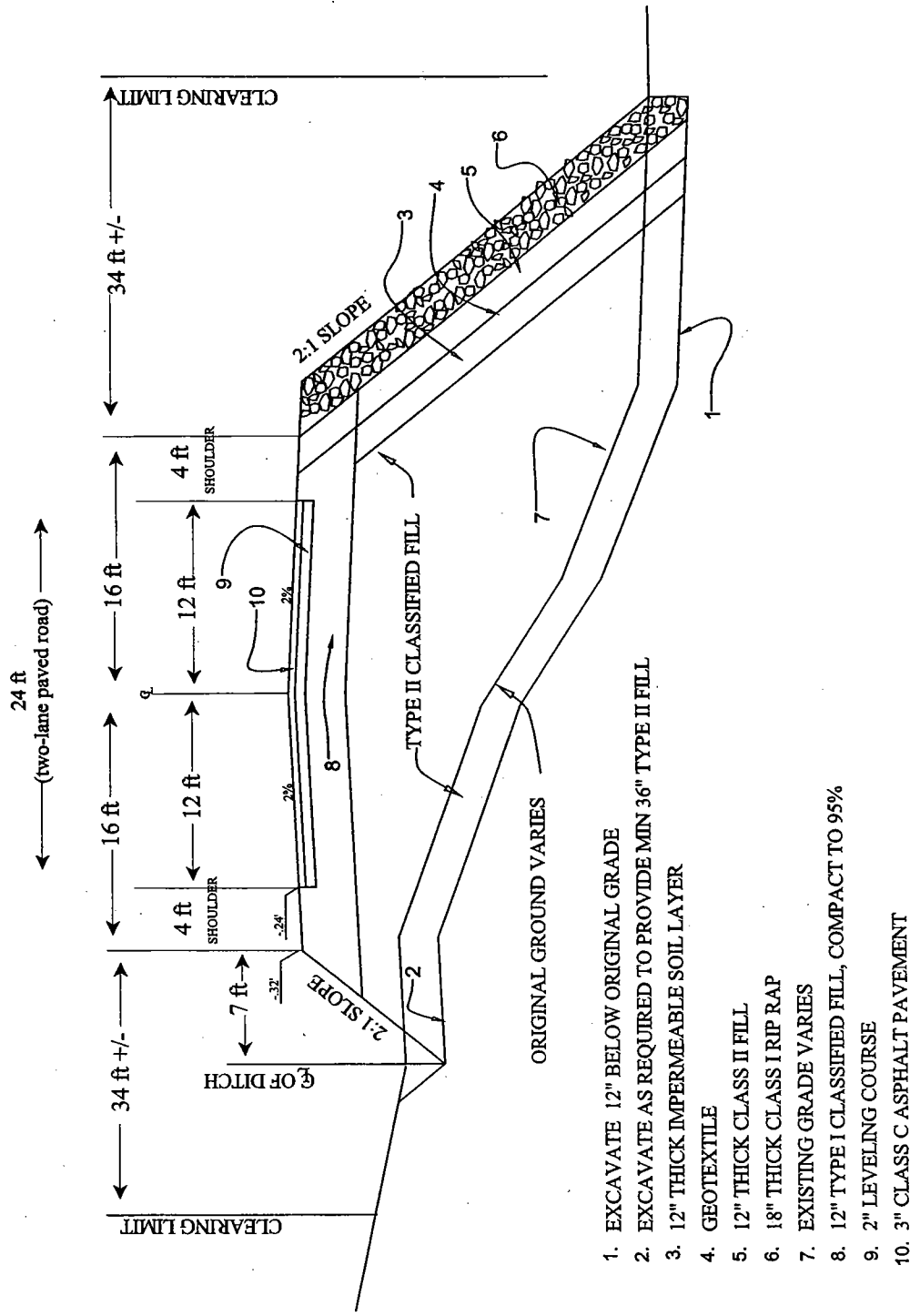
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Adjacent Property Owners:
 See attached table (Block 24)

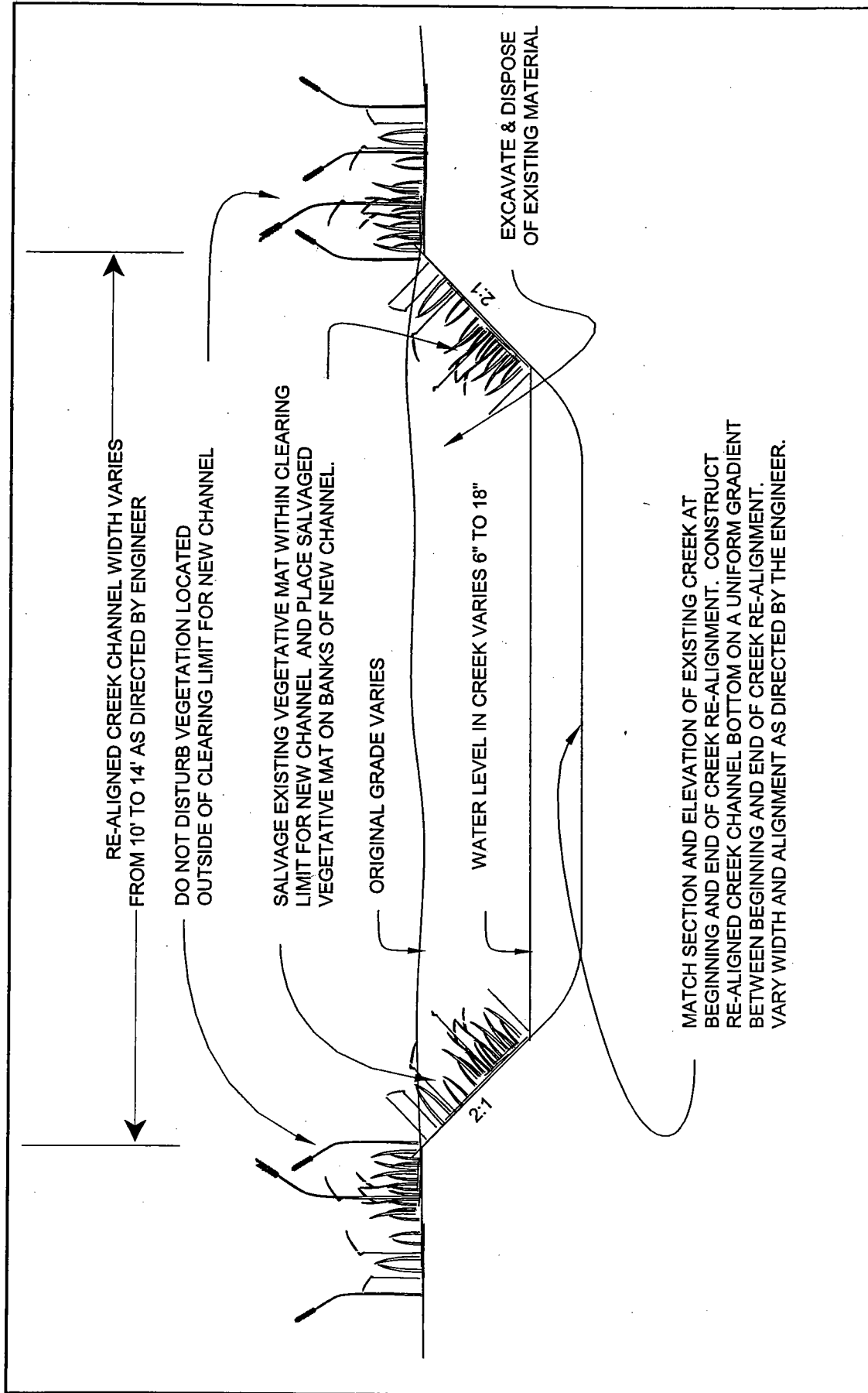
North Forest Acres Levee and Access Road Project

Sheet 3 of 5

Waterbody: Japanese Creek
 COE Number: M-2000-0052, Japanese Creek I.
 Date: 11/4/03
 File: chsr02/jsivils/North_Forest/ea_figs.apr



<p>Location: T. 1N, R. 1W, S. 34 & 27 Seward Meridian Seward, Alaska USGS Quad Seward (A-7)</p>	<p>Levee/Road Typical Section</p> <p>Application by: City of Seward PO Box 167 Seward AK 99664</p>	<p>North Forest Acres Levee and Access Road Project</p> <p>Sheet 4 of 5</p> <p>Waterbody: Japanese Creek COE Number: M-2000-0052, Japanese Creek 1 Date: 11/5/03 File: chsr02/jsivils/North_Forest/coe_permit.apr</p>
<p>Adjacent Property Owners: See attached table (Block 24)</p>	<p>not to scale</p>	



<p>Location: T. 1N, R. 1W, S. 34 & 27 Seward Meridian Seward, Alaska USGS Quad Seward (A-7)</p> <p>Adjacent Property Owners: See attached table (Block 24)</p>	<p>Typical Creek Realignment Cross Section</p> <p>Application by: City of Seward PO Box 167 Seward AK 99664</p> <p>not to scale</p>	<p>North Forest Acres Levee and Access Road Project</p> <p>Sheet 5 of 5</p> <p>Waterbody: Japanese Creek COE Number: M-2000-0052, Japanese Creek 1 Date: 11/5/03 File: chsr02/jsivils/North_Forest/coe_permit.apr</p>
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STATE OF ALASKA

OFFICE OF THE GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF AIR AND WATER QUALITY

Non-Point Source Control Section
401 Certification Program

NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. **M-2000-0052, Japanese Creek 1,** serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify that there is reasonable assurance that the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project with respect to Water Quality Certification may submit written comments within 30 days of the date of the Corps of Engineer's Public Notice to:

Department of Environmental Conservation
WQM/401 Certification
555 Cordova Street
Anchorage, Alaska 99501-2617
Telephone: (907) 269-7564
FAX: (907) 269-7508

STATE OF ALASKA

OFFICE OF THE GOVERNOR

**OFFICE OF PROJECT MANAGEMENT AND PERMITTING
DIVISION OF GOVERNMENTAL COORDINATION**

SOUTHCENTRAL REGIONAL OFFICE
550 West 7th Avenue, Suite 1660
ANCHORAGE, ALASKA 99501-3568
PHONE: (907) 269-7470/FAX: (907) 269-3981

**NOTICE OF APPLICATION
FOR
CERTIFICATION OF CONSISTENCY WITH THE
ALASKA COASTAL MANAGEMENT PROGRAM**

Notice is hereby given that a request is being filed with the Division of Governmental Coordination for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No **M-2000-0052, Japanese Creek 1**, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

This project is being reviewed for consistency with the Alaska Coastal Management Program. Written comments about the consistency of the project with the applicable ACMP statewide standards and district policies must be submitted to the Alaska Division of Governmental Coordination. For information about this consistency review, contact DGC at (907) 269-7470 or (907) 465-3562, or visit the DGC web site at <http://www.gov.state.ak.us/gdc/Projects/projects.html>.

Attachment 3